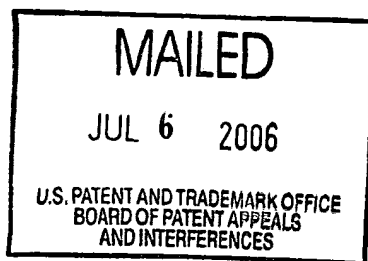


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte DALE E. GULICK
and
GEOFFREY S. STRONGIN

Application 09/853,443

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on July 3, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that a Second Order Returning Undocketed Appeal to Examiner was mailed on June 13, 2006, which requested that the examiner

issue a revised Examiner's Answer which contains the approval of the Technology Center Director and prominently identifies the new ground of rejection in a separate heading with all capital letters in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section [page 3].

It should be noted that the Examiner's Answer mailed June 27, 2006 now contains the Director's signature but fails to prominently display a separate heading for the new ground of rejection that is noted on page 8 of the Answer to appear in section (9).

As noted by MPEP § 1207.03 (Eighth Edition, Rev. 3, August 2005), any new ground of rejection made by an examiner in an answer must be:

- A) Approved by a Technology Center (TC) Director or designee; and
- B) prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the Answer (see MPEP § 1207.02).

Additionally, the examiner's answer must provide appellants a two-month time period for reply. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner:

1) to issue a revised Examiner's Answer which contains the approval of the Technology Center Director and prominently identifies the new ground of rejection in a separate heading with all capital letters in the "Grounds of Rejection to be Reviewed on Appeal" section" and the "Grounds of Rejection" section;

2) to have a copy of any subsequent Examiner's Answer scanned into the IFW;

3) for notification to appellants regarding the action taken; and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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